
SENATE BILL No. 227

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Unemployment insurance. Establishes an alternative method of determining the base period for unemployment compensation benefits. Provides that an individual who is otherwise eligible for benefits is not ineligible because the individual is: (1) a part-time worker; or (2) available for or seeking part-time work as long as the part-time work is for at least 20 hours per week. Provides that under certain circumstances, the definition of "wages" for unemployment compensation does not include \$9,000 paid in a calendar year to an individual by an employer or the employer's predecessor. Repeals the one week waiting period for payment of benefits. Makes conforming changes.

Effective: July 1, 2007.

Simpson

January 11, 2007, read first time and referred to Committee on Pensions and Labor.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 227

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-2-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. **(a) Except as**
3 **provided in subsection (b), "base period" means the first four (4)**
4 **of the last five (5) completed calendar quarters immediately preceding the**
5 **first day of an individual's benefit period. ~~Provided, however, That~~**

6 **(b) If an individual does not establish a benefit period because**
7 **the wage requirements of IC 22-4-14-5 are not met when**
8 **determining the base period under subsection (a), the base period**
9 **means the most recent four (4) completed calendar quarters**
10 **immediately preceding the first day of an individual's benefit**
11 **period.**

12 **(c) For a claim computed in accordance with ~~IC 1971, 22-4-22,~~**
13 **IC 22-4-22-1, the base period shall be the base period as outlined in**
14 **the paying state's law.**

15 SECTION 2. IC 22-4-2-12.5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.5. Notwithstanding
17 section 12 of this chapter, for an individual who during the "base

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period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the **first most recent** four (4) ~~of the last five (5)~~ completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.

SECTION 3. IC 22-4-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed. ~~Provided~~, No individual in a benefit period may file a valid claim for ~~a waiting period or~~ benefit period rights with respect to any period subsequent to the expiration of such benefit period.

SECTION 4. IC 22-4-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 29. "Insured unemployment" means unemployment during a given week for which ~~waiting period credit or~~ benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

SECTION 5. IC 22-4-4-2, AS AMENDED BY P.L.98-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars (\$7,000), has been paid in a

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calendar year to an individual by an employer or ~~his~~ **the employer's** predecessor with respect to employment during any calendar year subsequent to December 31, 1982, **and before January 1, 2008; or**

(B) nine thousand dollars (\$9,000), has been paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year subsequent to December 31, 2007;

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an individual performing service for ~~it~~ **the employer** (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on

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behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 6. IC 22-4-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) As used in this section, the term "part-time worker" means an individual whose normal work is in an occupation in which ~~his~~ **the individual's** services are not required for the customary scheduled full-time hours prevailing in the establishment in which ~~he~~ **the individual** is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which ~~he~~ **the individual** is employed.

(b) The board may prescribe rules applicable to part-time workers for determining their weekly benefit amount and the wage credits required to qualify such individuals for benefits. Such rules shall, with respect to such individuals, supersede any inconsistent provisions of this article; but, so far as practicable, shall secure results reasonably equivalent to those provided in the analogous provisions of this article.

(b) An individual who is otherwise eligible for benefits may not be considered ineligible because the individual:

(1) was a part-time worker; or

(2) is available for or is seeking part-time work as long as the

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part-time work is for at least twenty (20) hours per week.

SECTION 7. IC 22-4-13-1.1, AS ADDED BY P.L.108-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:

(1) fails to disclose amounts earned during any week in the individual's ~~waiting period~~, benefit period or extended benefit period; or

(2) fails to disclose or has falsified any fact;

that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

(1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.

(2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.

(3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under IC 22-4-17-2(e) and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

SECTION 8. IC 22-4-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for ~~waiting period~~ or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification

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amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without

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1 good cause in connection with the work. However, if such
 2 individual subsequently becomes reemployed and thereafter
 3 voluntarily leaves work without good cause in connection with the
 4 work, the individual shall be deemed ineligible as outlined in this
 5 section.

6 (5) An otherwise eligible individual shall not be denied benefits
 7 for any week because the individual is in training approved under
 8 Section 236(a)(1) of the Trade Act of 1974, nor shall the
 9 individual be denied benefits by reason of leaving work to enter
 10 such training, provided the work left is not suitable employment,
 11 or because of the application to any week in training of provisions
 12 in this law (or any applicable federal unemployment
 13 compensation law), relating to availability for work, active search
 14 for work, or refusal to accept work. For purposes of this
 15 subdivision, the term "suitable employment" means with respect
 16 to an individual, work of a substantially equal or higher skill level
 17 than the individual's past adversely affected employment (as
 18 defined for purposes of the Trade Act of 1974), and wages for
 19 such work at not less than eighty percent (80%) of the individual's
 20 average weekly wage as determined for the purposes of the Trade
 21 Act of 1974.

22 (6) An individual is not subject to disqualification because of
 23 separation from the individual's employment if:

- 24 (A) the employment was outside the individual's labor market;
- 25 (B) the individual left to accept previously secured full-time
 26 work with an employer in the individual's labor market; and
- 27 (C) the individual actually became employed with the
 28 employer in the individual's labor market.

29 (7) An individual who, but for the voluntary separation to move
 30 to another labor market to join a spouse who had moved to that
 31 labor market, shall not be disqualified for that voluntary
 32 separation, if the individual is otherwise eligible for benefits.
 33 Benefits paid to the spouse whose eligibility is established under
 34 this subdivision shall not be charged against the employer from
 35 whom the spouse voluntarily separated.

36 (8) An individual shall not be subject to disqualification if the
 37 individual voluntarily left employment or was discharged due to
 38 circumstances directly caused by domestic or family violence (as
 39 defined in IC 31-9-2-42). An individual who may be entitled to
 40 benefits based on this modification may apply to the office of the
 41 attorney general under IC 5-26.5 to have an address designated by
 42 the office of the attorney general to serve as the individual's

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address for purposes of this article.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; or

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

(1) A report of a law enforcement agency (as defined in IC 10-13-3-10).

(2) A protection order issued under IC 34-26-5.

(3) A foreign protection order (as defined in IC 34-6-2-48.5).

(4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

SECTION 9. IC 22-4-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for ~~waiting period or~~ benefit rights or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without

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good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for

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securing local work in the individual's customary occupation; and
 (4) the distance of the available work from the individual's
 residence.

However, work under substantially the same terms and conditions
 under which the individual was employed by a base-period employer,
 which is within the individual's prior training and experience and
 physical capacity to perform, shall be considered to be suitable work
 unless the claimant has made a bona fide change in residence which
 makes such offered work unsuitable to the individual because of the
 distance involved. For an individual who is subject to section 1(c)(8)
 of this chapter, the determination of suitable work for the individual
 must reasonably accommodate the individual's need to address the
 physical, psychological, legal, and other effects of domestic or family
 violence.

(f) Notwithstanding any other provisions of this article, no work
 shall be considered suitable and benefits shall not be denied under this
 article to any otherwise eligible individual for refusing to accept new
 work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike,
 lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work
 offered are substantially less favorable to the individual than
 those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be
 required to join a company union or to resign from or refrain from
 joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be
 required to discontinue training into which the individual had
 entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit
 periods established on and after July 5, 1981, "suitable work" means
 any work which is within an individual's capabilities. However, if the
 individual furnishes evidence satisfactory to the department that the
 individual's prospects for obtaining work in the individual's customary
 occupation within a reasonably short period are good, the
 determination of whether any work is suitable work shall be made as
 provided in subsection (e).

(h) With respect to extended benefit periods established on and after
 July 5, 1981, no work shall be considered suitable and extended
 benefits shall not be denied under this article to any otherwise eligible
 individual for refusing to accept new work under any of the following
 conditions:

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(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 10. IC 22-4-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) An individual shall be ineligible for ~~waiting period~~ or benefit rights for any week with respect to which ~~his~~ **the individual's** total or partial or part-total unemployment is due to a labor dispute at the factory, establishment, or other premises at which ~~he~~ **the individual** was last employed.

(b) This section shall not apply to an individual if ~~he~~ **the individual** has terminated ~~his~~ employment, or ~~his~~ **the individual's** employment has been terminated, with the employer involved in the labor dispute; or if the labor dispute which caused ~~his~~ **the individual's** unemployment has terminated and any period necessary to resume normal activities at ~~his~~ **the individual's** place of employment has elapsed; or if all of the following conditions exist: ~~He~~

(1) **The individual** is not participating in or financing or directly interested in the labor dispute which caused ~~his~~ **the individual's** unemployment. ~~and he~~

(2) **The individual** does not belong to a grade or class of workers of which, immediately before the commencement of ~~his~~ **the individual's** unemployment, there were members employed at the same premises as ~~he~~, **the individual**, any of whom are participating in or financing or directly interested in the dispute.

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1 ~~and he~~

2 (3) **The individual** has not voluntarily stopped working, other
3 than at the direction of ~~his~~ **the individual's** employer, in
4 sympathy with employees in some other establishment or factory
5 in which a labor dispute is in progress.

6 (c) If in any case separate branches of work which are commonly
7 conducted as separate businesses in separate premises are conducted
8 in separate departments of the same premises, each such department
9 shall, for the purpose of this section, be deemed to be a separate
10 factory, establishment, or other premises.

11 (d) Upon request of any claimant or employer involved in an issue
12 arising under this section, the deputy shall, and in any other case the
13 deputy may, refer claims of individuals with respect to whom there is
14 an issue of the application of this section to an administrative law judge
15 who shall make the initial determination with respect thereto, in
16 accordance with the procedure in IC 22-4-17-3.

17 (e) Notwithstanding any other provisions of this article, an
18 individual shall not be ineligible for ~~waiting period~~ or benefit rights
19 under this section solely by reason of ~~his~~ **the individual's** failure or
20 refusal to apply for or to accept recall to work or reemployment with an
21 employer during the continuance of a labor dispute at the factory,
22 establishment, or other premises of the employer, if the individual's last
23 separation from the employer occurred prior to the start of the labor
24 dispute and was permanent or for an indefinite period.

25 SECTION 11. IC 22-4-15-4 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) An individual
27 shall be ineligible for ~~waiting period~~ or benefit rights for any week with
28 respect to which the individual receives, is receiving, or has received
29 payments equal to or exceeding ~~his~~ **the individual's** weekly benefit
30 amount in the form of:

31 (1) deductible income as defined and applied in IC 22-4-5-1 and
32 IC 22-4-5-2; or

33 (2) any pension, retirement or annuity payments, under any plan
34 of an employer whereby the employer contributes a portion or all
35 of the money. This disqualification shall apply only if some or all
36 of the benefits otherwise payable are chargeable to the experience
37 or reimbursable account of such employer, or would have been
38 chargeable except for the application of this chapter. For the
39 purposes of this subdivision (2), federal old age, survivors, and
40 disability insurance benefits are not considered payments under
41 a plan of an employer whereby the employer maintains the plan
42 or contributes a portion or all of the money to the extent required

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by federal law.

(b) If the payments described in subsection (a) are less than ~~his~~ **the individual's** weekly benefit amount an otherwise eligible individual shall not be ineligible and shall be entitled to receive for such week benefits reduced by the amount of such payments.

(c) This section does not preclude an individual from delaying a claim to pension, retirement, or annuity payments until the individual has received the benefits to which the individual would otherwise be eligible under this chapter. Weekly benefits received before the date the individual elects to retire shall not be reduced by any pension, retirement, or annuity payments received on or after the date the individual elects to retire.

SECTION 12. IC 22-4-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. Except as provided in ~~IC 1971; 22-4-22; IC 22-4-22-1~~, an individual shall be ineligible for ~~waiting period or~~ benefit rights for any week with respect to which or a part of which ~~he~~ **the individual** receives, is receiving, has received, or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. ~~Provided, That~~ This disqualification shall not apply if the appropriate agency of such other state or of the United States finally determines that ~~he~~ **the individual** is not entitled to such employment benefits, including benefits to federal civilian employees and ex-servicemen pursuant to 5 U.S.C. Chapter 85.

SECTION 13. IC 22-4-17-2, AS AMENDED BY P.L.108-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or

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1 otherwise delivered to the individual, asks a hearing thereon before an
 2 administrative law judge, such determination shall be final and benefits
 3 shall be paid or denied in accordance therewith.

4 (b) The department shall promptly furnish each employer in the base
 5 period whose experience or reimbursable account is potentially
 6 chargeable with benefits to be paid to such individual with a notice in
 7 writing of the employer's benefit liability. Such notice shall contain the
 8 date, the name and Social Security account number of the individual,
 9 the ending date of the individual's base period, and the week ending
 10 date of the first week of the individual's benefit period. Such notice
 11 shall further contain information as to the proportion of benefits
 12 chargeable to the employer's experience or reimbursable account in
 13 ratio to the earnings of such individual from such employer. Unless the
 14 employer, within ten (10) days after such notice of benefit liability was
 15 mailed to the employer's last known address, or otherwise delivered to
 16 the employer, asks a hearing thereon before an administrative law
 17 judge, such determination shall be final and benefits paid shall be
 18 charged in accordance therewith.

19 (c) An employing unit, including an employer, having knowledge
 20 of any facts which may affect an individual's eligibility or right to
 21 ~~waiting period credits~~ or benefits, shall notify the department of such
 22 facts within ten (10) days after the mailing of notice that a former
 23 employee has filed an initial or additional claim for benefits on a form
 24 prescribed by the department.

25 (d) In addition to the foregoing determination of insured status by
 26 the department, the deputy shall, throughout the benefit period,
 27 determine the claimant's eligibility with respect to each week for which
 28 the claimant claims ~~waiting period credit~~ or benefit rights, the validity
 29 of the claimant's claim therefor, and the cause for which the claimant
 30 left the claimant's work, or may refer such claim to an administrative
 31 law judge who shall make the initial determination with respect thereto
 32 in accordance with the procedure in IC 22-4-17-3.

33 (e) In cases where the claimant's benefit eligibility or
 34 disqualification is disputed, the department shall promptly notify the
 35 claimant and the employer or employers directly involved or connected
 36 with the issue raised as to the validity of such claim, the eligibility of
 37 the claimant for ~~waiting period credit~~ or benefits, or the imposition of
 38 a disqualification period or penalty, or the denial thereof, and of the
 39 cause for which the claimant left the claimant's work, of such
 40 determination and the reasons thereof. Except as otherwise hereinafter
 41 provided in this subsection regarding parties located in Alaska, Hawaii,
 42 and Puerto Rico, unless the claimant or such employer, within ten (10)

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1 days after such notification was mailed to the claimant's or the
 2 employer's last known address, or otherwise delivered to the claimant
 3 or the employer, asks a hearing before an administrative law judge
 4 thereon, such decision shall be final and benefits shall be paid or
 5 denied in accordance therewith. With respect to notice of disputed
 6 administrative determination or decision mailed or otherwise delivered
 7 to the claimant or employer either of whom is located in Alaska,
 8 Hawaii, or Puerto Rico, unless such claimant or employer, within
 9 fifteen (15) days after such notification was mailed to the claimant's or
 10 employer's last known address or otherwise delivered to the claimant
 11 or employer, asks a hearing before an administrative law judge thereon,
 12 such decision shall be final and benefits shall be paid or denied in
 13 accordance therewith. If such hearing is desired, the request therefor
 14 shall be filed with the department in writing within the prescribed
 15 periods as above set forth in this subsection and shall be in such form
 16 as the department may prescribe. In the event a hearing is requested by
 17 an employer or the department after it has been administratively
 18 determined that benefits should be allowed to a claimant, entitled
 19 benefits shall continue to be paid to said claimant unless said
 20 administrative determination has been reversed by a due process
 21 hearing. Benefits with respect to any week not in dispute shall be paid
 22 promptly regardless of any appeal.

23 (f) A person may not participate on behalf of the department in any
 24 case in which the person is an interested party.

25 (g) Solely on the ground of obvious administrative error appearing
 26 on the face of an original determination, and within the benefit year of
 27 the affected claims, the commissioner, or a representative authorized
 28 by the commissioner to act in the commissioner's behalf, may
 29 reconsider and direct the deputy to revise the original determination so
 30 as to correct the obvious error appearing therein. Time for filing an
 31 appeal and requesting a hearing before an administrative law judge
 32 regarding the determinations handed down pursuant to this subsection
 33 shall begin on the date following the date of revision of the original
 34 determination and shall be filed with the commissioner in writing
 35 within the prescribed periods as above set forth in subsection (c).

36 (h) Notice to the employer and the claimant that the determination
 37 of the department is final if a hearing is not requested shall be
 38 prominently displayed on the notice of the determination which is sent
 39 to the employer and the claimant.

40 (i) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made
 41 by the individual at the time of the claim for benefits, the department
 42 shall not notify the employer of the claimant's current address or

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1 physical location.
 2 SECTION 14. IC 22-4-14-4 IS REPEALED [EFFECTIVE JULY 1,
 3 2007].

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